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OFFICE OF PETITIONS

In re Application of :
Mitchell Berman :
Application No. 10/804,250 : **DECISION ON PETITION**
Filed: March 19, 2004 :
Attorney Docket No. 5199-85 :

This is a decision on the renewed petition, filed April 17, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non final Office action mailed June 22, 2007, which set a three (3) month shortened statutory period for reply. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.181 was dismissed on March 25, 2008.

Petitioner asserts that the Office action dated June 22, 2007 was not received. Petitioner contends that the non-final Office was not received because a change of correspondence address was not entered as such the Office action was mailed to the wrong address.

A review of the written record indicates an irregularity in the mailing of the Office action of June 22, 2007. In this regard, the Office received a change of address on via certificate of mailing on January 20, 2006, prior to the mailing of the Office action of June 22, 2007. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3771 for remailing the Office action of June 22, 2007 and resetting the period for reply.

Charlema Grant
Petitions Attorney
Office of Petitions